IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11452 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

1 to 5 NO

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RAJGOR NATWARLAL CHUNILAL - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR KB PUJARA for Petitioner(s) : 1,
MRS ARCHANA RAVAL ASSTT GOVERNMENT PLEADER for Respondent(s) : 1,
MR HS MUNSHAW for Respondent(s) : 2-3,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 07/08/2006

ORAL JUDGMENT

1. Invoking Articles 14, 16, 19, 21 and 226 of the Constitution, the petitioner has mainly sought direction against the respondents to issue order of appointment as vidyasahayak to the

petitioner on the basis of his placement in the select list/waiting list prepared pursuant to the advertisement dated 14.7.2004 so as to fill up the vacancies arising due to resignation of certain selected appointees. The petition was resisted by respondent No.3 by filing an affidavit-in-reply of the In-charge District Primary Education Officer, Banaskantha mainly on the grounds that the waiting list prepared pursuant to the advertisement dated 14.7.2004 was exhausted and 62 posts falling vacant due to resignation were to be considered in future. It is also stated by him that, out of 62 posts, 19 were to be filled up through general category candidates and the last appointee belonging to the general category had been at serial No.676, whereas the petitioner was at serial No.764 in the waiting list. It is also submitted that the waiting list survived for one year by virtue of the Government Resolution dated 11.6.1998 and hence, the waiting list had expired on 17.11.2005.

2. As submitted by the learned counsel for the petitioner, Mr.Pujara, and conceded by the learned A.G.P. Ms.Archana Raval, the Government has taken a policy decision, conveyed vide letter dated 7.7.2006 of the Education Department, whereunder the vacancies arising due

to resignation of the selected appointees were to be filled up from the candidates in the waiting list and the limitation of one year for the life of waiting list was, as an exception, to be waived in case of the particular selection in question. Therefore, the waiting list, in which the name of the petitioner appears, was required to be operated for the purpose of filling up the vacancies arising due to resignation of the selected candidates.

3. In the facts and for the reasons briefly stated hereinabove, the petition is required to be partly allowed. Accordingly, it is directed that the waiting list prepared pursuant to the advertisement dated 14.7.2004 for the purpose of appointment on the post of vidysahayak shall be operated by the respondent No.3 and the petitioner, alongwith other candidates in the waiting list, shall be considered in the order of merit and availability for the purpose of appointment to the vacant posts. That exercise shall be completed within a period of three weeks from the date of receipt of a copy of this order. Rule made absolute accordingly with no order as to costs. Direct service is permitted.

Sd/-

(D.H.WAGHELA, J.)

(KMG Thilake)